IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3432 OF 2004

Rashmikant Vyas .. Applicant.
Vs.
State of Maharashtra .. Respondent.

Mr.A.P.Mundargi for the applicant.
Mr.R.Y.Mirza APP for the respondent.

CORAM : D.B.BHOSALE, J.

DATED : 23RD AUGUST, 2004

P.C.:

. Heard Mr.Mundargi, learned counsel for the applicant and Mr.Mirza, learned A.P.P. for the respondent.

2. The applicant has filed this application under section 438 of Criminal Procedure Code in MECR No.2/2004 registered at V.P.Road police station under sections 420, 120-B read with section 34 of Indian Penal Code. The offence was registered in pursuance of the order passed by the learned Magistrate under section 156(3) of Criminal Procedure Code. The case set up by the complainant is that she had approached the applicant in 1996 seeking his help to arrange a loan of Rs.30,00,000/- for setting up a computer training

institution and that she had paid Rs.60,000/- to the applicant as his service charges. The said transaction between the complainant and the applicant took place on 25.3.1996. The applicant, who was working as finance broker, had accepted that amount and had also taken steps for arranging the finance. He had visited Kerala on two occasions to take search of the complainant's property for securing loan. However, in fact the loan could not be arranged by the applicant and as a result of which the complainant allegedly sufferred financial loss of Rs.16,00,000/-. It appears that in 1997, the complainant had approached the Consumer Disputes Redressal Commission and thereafter in 2003 before the Special Judge appointed under M.P.I.D. Act. Mr.Mundargi submits that the nature of the dispute between the complainant and the applicant is essentially of Civil nature. According to Mr.Mundargi even if all the allegations against the applicant are taken as true it would not constitute an offence under section 420 of Indian Penal Code as alleged by the complainant. There is no dispute that during pendency of the application before the Sessions Court seeking anticipatory bail, without prejudice to the legal rights and contention the

applicant paid Rs.60,000/- to the complainant by demand draft. Keeping the nature of allegations against the applicant in view and considering the overall facts and circumstances of the case I am satisfied that custodial interrogation of the applicant would not be necessary in the instant case. In view of this I am inclined to grant this application for pre-arrest bail.

. The applicant is directed to be enlarged on bail, in the event of his arrest, in MECR No.2/2004 registered at V.P.Road police station on his furnishing a personal bond of Rs.10,000/- with one or two sureties of the like amount to the satisfaction of the Station Officer of the concerned police station subject to the condition that he shall report the said police station every alternate day for a period of 15 days between 6 pm and 8 pm and thereafter on every Saturday between 6 pm and 7 pm until the filing of the chargesheet or for two months from today, whichever is earlier.

. While passing this order, I shall not be understood to have expressed any opinion on merits of the case. The trial court will deal with the case uninfluenced by the observations made in this order.

. The application is disposed of.

(D.B.Bhosale, J.)